No. 85-1066

Supreme Court, U.S.
FILED
DEC 6 1985
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

JAMES G. MARTIN, *et al.*,
Appellants,

v.

TERRY L. HAITH,
Appellee.

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NORTH CAROLINA

APPENDIX

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APPENDIX A

United States District Court

EASTERN DISTRICT OF NORTH CAROLINA

Raleigh Division

No. 84-1319-CIV-5

TERRY L. HAITH,
Plaintiff,

v.

JAMES G. MARTIN, *et al.*,
Defendants.

ORDER

In accordance with the Memorandum Opinion of this court filed today, and with the concurrence of Judge Phillips and Judge Dupree, it is hereby ORDERED, ADJUDGED and DECREED that defendants be, and they are hereby, restrained and enjoined from conducting any elections pursuant to the laws listed below unless and until the same have been approved by the Attorney General of the United States or the United States District Court for the District of Columbia, as required by Title 42 United States Code § 1973c:

Chapter 262, Session Laws of 1965
Chapter 997, Session Laws of 1967
Chapters 1119, 1130 and 1238, Session Laws of 1977
Chapter 1109, Session Laws of 1983.

This 27 September 1985.

FOR THE COURT:

/s/ W. EARL BRITT
United States District Judge

APPENDIX B

United States District Court

EASTERN DISTRICT OF NORTH CAROLINA

Raleigh Division

No. 84-1319-CIV-5

Filed: September 27, 1985

TERRY L. HAITH,
Plaintiff,

v.

JAMES G. MARTIN, *et al.*,
Defendants.

MEMORANDUM OPINION

Before PHILLIPS, Circuit Judge, BRITT, Chief District Judge, and DUPREE, Senior District Judge.

BRITT, Chief District Judge:

This action was instituted under the Voting Rights Act of 1965, 42 U.S.C. § 1973 (the Act), seeking to enjoin the election of superior court judges in North Carolina in accordance with acts of the General Assembly which have not been precleared as required by section 5 of the Act. 42 U.S.C. § 1973c. As required by 28 U.S.C. § 2284, Chief Judge Winter designated a three-judge panel to hear and determine the controversy. The matter is now before the court on cross-motions for partial summary judgment, a hearing on said motions having been held in Wilmington, North Carolina, on 16 September 1985.

I.

Plaintiff is a black citizen and registered voter of Guilford County. The named defendants are state officials of North Carolina, all sued in their official capacities.

II.

The court has jurisdiction pursuant to 42 U.S.C. § 1973c and 28 U.S.C. § 2284.

III.

The following facts are not in dispute:

1. On 1 November 1964 North Carolina had a total of thirty judicial districts, twenty-eight of which were served by one judge each, with the remaining two being served by two judges each. Judges within all districts were elected simultaneously for eight-year terms.

2. On 1 November 1964 candidates for the office of superior court judge in judicial districts having more than one judge were not required to announce for which vacancy he or she was filing nor did any district have staggered terms for judges within the district.

3. In 1965 the North Carolina General Assembly enacted Session Law Chapter 262 which amended N.C. Gen. Stat. § 163-147 (now N.C. Gen. Stat. § 163-106(d) (1982)) and established a system of numbered seat elections for the position of superior court judge in districts with two or more vacancies in any judicial district. 1965 N.C. Sess. Laws 262.

4. In 1967 the North Carolina General Assembly enacted Session Law Chapter 997 which provided for an additional resident judge in the 12th, 18th, 19th and 28th judicial districts to serve eight-year terms staggered from the positions already in existence in those districts. 1967 N.C. Sess. Laws 997.

5. In 1977 the North Carolina General Assembly enacted Session Laws Chapter 1119, which provided for an additional resident judge in the 3rd, 10th, 12th, 14th, 19th, and 20th judicial districts to serve eight-year terms staggered from the positions already in existence in those districts. 1977 N.C. Sess. Laws 1119.

6. In 1977 the North Carolina General Assembly enacted Session Laws Chapters 1130 and 1238 creating judicial districts 15A and 15B out of former district 15; creating judicial districts 19A and 19B out of former district 19; and, creating judicial districts 27A and 27B out of former district 27, thereby altering

the districts from which candidates for the office of superior court judge in those districts were nominated. 1977 N.C. Sess. Laws 1130 and 1238.

7. In 1983 the North Carolina General Assembly enacted Session Laws 1109 which provided for additional judges in judicial districts 1, 9, 18 and 30. 1983 N.C. Sess. Laws 1109.

8. Forty of the one hundred counties in North Carolina are subject to section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973.

9. Elections of superior court judges in the forty counties which are covered by section 5 of the Voting Rights Act of 1965 are affected by the acts of the legislature above referred to.

IV.

Defendants must submit "any voting qualification or prerequisite to voting, or standard, practice, or procedure . . . different from that in force or effect on November 1, 1964," to the Attorney General for preclearance or institute an action in the United States District Court for the District of Columbia for a declaratory judgment that any such qualification or prerequisite to voting, or standard, practice or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. 42 U.S.C. § 1973c. Defendants admit that Chapters 1119, 1130, and 1238 of the Session Laws of 1977 and Chapter 1109 of the Session Laws of 1983 have not been precleared. They contend, however, that Chapter 997 of the Session Laws of 1967 and Chapter 262 of the Session Laws of 1965 have been precleared because they were included in later enactments of the General Assembly which were submitted to, and approved by, the Attorney General. In addition, defendants contend that section 5 was not intended by Congress to apply to the election of judges and that their failure to preclear the subject enactments was the result of representations made to state officials by the office of the Attorney General. The contentions will be addressed separately.

A. Does section 5 apply to the election of judges?

Defendants base their contention that it does not apply to the election of judges on the case of *Holshouser v. Scott,* 335 F. Supp. 928 (M.D.N.C. 1971), *aff'd,* 409 U.S. 807 (1972). In that case the practice of nominating candidates for superior court judgeships in North Carolina on a districtwide basis and electing them on a statewide basis was challenged as being violative of the due process clause of the 14th Amendment to the Constitution of the United States. The majority of a three-judge panel held that the practice was not constitutionally infirm stating that the one-man, one-vote rule did not apply to the state judiciary. Defendants' reliance on *Holshouser* is misplaced as it in no way dealt with, or attempted to interpret, the Voting Rights Act of 1965. In fact, neither the majority nor the dissent mentioned the Voting Rights Act of 1965.

Defendants seek to draw on the distinction made in *Holshouser* between those in the legislative branch of government who represent their constituents in the making of laws and those in the judicial branch who do not represent a constituency but, rather, interpret the law. Discounting the interesting jurisprudential arguments arising from such an attempted distinction, *see, Holshouser,* 335 F. Supp. at 934 (Craven, J. dissenting), it is quite clear that no such distinction can be attributed to the Act. The Act provides:

> No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color . . . . 42 U.S.C. § 1973.

As can be seen, the Act applies to all *voting* without any limitation as to who, or what, is the object of the vote. The cases presented to the courts have dealt with what constitutes a "standard, practice, or procedure." Thus, in *Dougherty County, Georgia, Board of Education v. White,* the Supreme Court held that a newly enacted rule requiring employees seeking public office to take unpaid leaves of absence while campaigning was a "standard, practice, or procedure" requiring preclearance under section 5. 439 U.S. 32 (1978). The Court said that Congress meant "to reach any state enactment which

altered the election law of a covered State in even a minor way." 439 U.S. at 37, *quoting Allen v. State Board of Elections,* 393 U.S. 544 (1969).

We hold that the fact that an election law deals with the election of members of the judiciary does not remove it from the ambit of section 5.

B. Were Chapters 997 of the Session Laws of 1967 and 262 of the Session Laws of 1965 precleared by inclusion in later enactments of the General Assembly?

Guidelines for submissions to the Attorney General for preclearance under section 5 have been set forth in 28 C.F.R. part 51. Section 51.25, entitled "Required Contents," states:

> Each submission should contain the following information or documents to enable the Attorney General to make the required determination pursuant to Section 5 with respect to the submitted change affecting voting: . . . (b) if the change affecting voting is not readily apparent on the face of the document provided under paragraph (a) or is not embodied in a document, a clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

28 C.F.R. § 51.25 (1984). Defendants do not challenge plaintiff's contention that they did not comply with these guidelines. Nor do they challenge plaintiff's contention that the transmittal letters in which the statutes were enclosed did not even mention Chapter 252, Session Laws of 1965 or Chapter 997, Session Laws of 1967.

The Supreme Court in *McCain v. Lybrand* rejected a contention similar to that advanced by defendants here. ____ U.S. ____, 104 S. Ct. 1037 (1984). In so doing the Court said: "When a jurisdiction adopts legislation that makes clearly defined changes in its election practices, sending that legislation to the Attorney General merely with a general request for preclearance pursuant to § 5 constitutes a submission of the

changes made by the enactment and cannot be deemed a submission of changes made by previous legislation which themselves were independently subject to § 5 preclearance." 104 S. Ct. at 1049.

On the facts presented we hold that Chapter 262, Session Laws of 1965 and Chapter 997, Session Laws of 1967 have not been precleared as required by section 5 of the Voting Rights Act of 1965.

C. Was the failure of defendants to obtain preclearance of the statutes in question the result of representations made to state officials by the office of the Attorney General?

Defendants submitted to the Attorney General for preclearance certain enactments of the 1967 session of the General Assembly of North Carolina. In a letter to the Executive Secretary of the North Carolina State Board of Elections dated 23 April 1971, Acting Assistant Attorney General David L. Norman stated: ". . . I must advise you that there were several statutes submitted, such as the changes in the North Carolina court system, which did not deal with voting practices or procedures and, thus, are not subject to Section 5 of the Voting Rights Act. . . ."

Defendants contend that the Norman letter is "the cause of the State's present dilemma" and that equitable principles should cause this court to sanction the failure to seek preclearance of legislation dealing with the election of judges. Thus, the state contends that even if this court holds, as we must, that section 5 does apply to elections of members of the judiciary our decree should be prospective only. The court disagrees. It does appear that great efforts were made by the Executive Secretary of the State Board of Elections to comply with the requirements of the Voting Rights Act of 1965. Nevertheless, the Act does not give this court the power to provide equitable relief to defendants, no matter how just their cause. *See,* 42 U.S.C. § 1973c.

By the very terms of the statute, covered changes in election laws may not be put into effect until they have either been precleared by the Attorney General or approved by the United

States District Court for the District of Columbia. Indeed, they are not "effective as laws until and unless [they are] cleared pursuant to § 5." *McCain v. Lybrand,* ____ U.S. ____, 104 S. Ct. at 1044, *quoting Conner v. Waller,* 421 U.S. 656 (1975).

Defendants have not challenged plaintiff's contentions that each of the statutes in question deals with a "standard, practice, or procedure with respect to voting." Since the statutes in question provide for designated seats in multi-member districts, staggered terms and changes in the boundaries or make-up of voting districts, we hold that they are subject to the section 5 preclearance requirements.

It follows that plaintiff is entitled to the injunctive relief sought. An order providing that relief will issue.

This 27 September 1985.

FOR THE COURT:

/s/ W. EARL BRITT
United States District Judge

APPENDIX C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

TERRY L. HAITH,	)	No. 84-1319-DIV-5
	)	
Plaintiff	)	
	)	
v.	)	
JAMES G. MARTIN, *et al.*,	)	
	)	
Defendants.	)	

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that James C. Martin, *et al,* defendants in the above-captioned action, hereby appeal to the Supreme Court of the United States from the final order and injunction entered in this action on 27 September, 1985.

This appeal is taken pursuant to 28 U.S.C. Sec. 1253 and 42 U.S.C. Sec. 1973 c.

This the 4 day of October, 1985.

LACY H. THORNBURG
ATTORNEY GENERAL

James Wallace, Jr.
Assistant Attorney General
Attorney General's Office
Post Office Box 629
Raleigh, North Carolina 27602
Telephone: (919) 733-7218

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Defendants' Notice of Appeal to the Supreme Court of the United States to:

Mr. C. Allen Foster
Turner, Enochs & Sparrow, P.A.
Attorneys at Law
Post Office Drawer D
Greensboro, North Carolina 27402

by placing a copy of same in the United States Post Office, postage prepaid.

This the 4 day of October, 1985.

_____

James Wallace, Jr.

APPENDIX D

AFFIDAVIT

Charles Edwin Hinsdale, being first duly sworn, on the basis of his personal knowledge, deposes and says:

1. I am a Professor Emeritus of the Institute of Government, Chapel Hill, North Carolina.

2. From 1961 until 1981, I served at the Institute of Government as a Professor of Public Law and Government and as Assistant Director of the Institute.

3. During that period, my primary field of specialization was North Carolina's Judicial System, my responsibilities having included the teaching of continuing education courses for trial judges, clerks of court, magistrates and public defenders. I also worked extensively with the North Carolina Courts Commission and wrote virtually every Commission Report from 1965 until 1969. I also drafted nearly all legislation embodying suggestions contained in the Commission's Reports.

4. I drafted the Commission Report which immediately preceded the enactment of Chapter 1049, Session Laws of 1967; I also drafted Chapter 1049. Prior to drafting either of those, I thoroughly researched the status of solicitorial and judicial districts in North Carolina and became familiar with the number and the boundaries of each.

5. The enactment of Chapter 1049, Session Laws of 1967, corrected a sizeable discrepancy which existed between the number of solicitorial districts and the number of judicial districts in the State. Its enactment changed the boundaries of numerous solicitorial districts, and, therefore, the electoral districts of numerous solicitors.

8. Some of these changes occurred in North Carolina counties which were at the time, and which remain, subject to the preclearance requirements contained in §5, Voting Rights Act of 1965,

1965, as amended, 42 USC §1973c.

Further, your affiant sayeth not.

_____

Charles Edwin Hinsdale
Affiant

Subscribed and sworn to before
me this 20th day of May, 1985.

_____

Notary Public

My Commission Expires: _____

APPENDIX E

AFFIDAVT

Washington)
) ss
District of Columbia)

Jerris Leonard, being first duly sworn on oath, deposes and states:

1. That from approximately January 1969 through April 15, 1971, he was the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice, and as such, was familiar with the policy of the Department with respect to the enforcement of Section 5 of the Voting Rights Act of 1965.

2. That during said period of time, there was considerable doubt, discussion and disagreement within the Civil Rights Division of the Department of Justice with respect to the reach of the Voting Rights Act, and indeed, on a number of occasions, the Department of Justice, through the Division, took positions interpreting the Act far more restrictively that what the courts eventually decided was the reach of Section 5.

3. Included among the doubts and concerns was whether or not Section 5 of the Voting Rights Act of 1965 applied to judicial and prosecutorial districts and elections, as these offices were not representational in the context of members of the state legislatures, common councils, county boards and commissions.

4. Your Affiant has reviewed a letter dated April 23, 1971, addressed to Mr. Alex K. Brock, Executive Secretary, North Carolina State Board of Elections and signed by David L. Norman, Acting Assistant Attorney General, Civil Rights Division of the U.S. Department of Justice, and with specific reference to the ultimate paragraph, and more specifically the language contained therein stating that a number of the Acts submitted by North Carolina relating to its court system, "are not subject to Section 5 of the Voting Rights Act," when in fact, a review of the Act submitted, *i.e.*, Chapter 1049, would today, have been required to be submitted and precleared under Section 5 of the Voting Rights Act, such position taken by Norman could easily

be read, in light of its context, to exclude the necessity of submitting legislation relating to the voting districts, terms of office, etc., of judges and/or prosecutors (solicitors). Such a determination was, in fact, not inconsistent with positions taken by the Department of Justice at or about that period of time.

Executed at Washington, D.C. this 14th day of May, 1985.

Jerris Leonard

SUBSCRIBED and sworn to before me this 14th day of May, 1985.

Notary Public
My Commission Expires 3/88

APPENDIX F

AFFIDAVIT

Alex K. Brock, being first duly sworn, on the basis of his personal knowledge deposes and says:

1. I am the Executive Secretary-Director of the State Board of Elections of North Carolina and have served continuously in each capacity since my initial appointment in July 1965.

2. Since that date, I have made every effort to comply with the submission requirements of Section 5, Voting Rights Act, as amended, 42 USC 1973(c).

3. Following the passage of the Voting Rights Act, I made numerous trips to the Office of the United States Attorney General to confer with members of the staff there as to the requirements of the Act, visiting numerous times, once every four to six weeks, in 1966 and early 1967.

4. Initially, my submissions of changes in North Carolina's elections laws were made by hand delivery or by mail, without explanatory cover correspondence.

5. Following the decision in *Clayton v. North Carolina State Board of Elections,* 317 F.Sup. 915 (E.D.N.C. 1970), which determined my earlier submissions to have been inadequate, I resorted to a method of written submissions whereby I would include all election law changes, designating each by chapter number and year in letters to the Attorney General, attaching thereto a copy of each piece of legislation to which I had referred, as is clearly stated in the "Certificate of Service" executed by me in each letter of submission.

6. The method of submission employed by me was developed through numerous conferences with Department of Justice officials, who expressed preference for the method, which I still employ, in that I have never received a complaint regarding, or objection to, that method.

7. On February 18, 1971, I sent two submission letters to the United States Attorney General, one itemizing elections laws enacted by the North Carolina General Assembly in 1967 and one itemizing elections laws enacted in 1969. I attached to each copies of the legislation to which I referred in the letters.

8. I have attached hereto copies of each of those letters, retrieved from files in my official custody. I did not retain copies of the legislation in my files, but have provided new copies of those which are pertinent to the litigation in connection with which this Affidavit has been prepared. The letter containing 1967 changes is marked as Attachment 'A' and the letter containing 1969 changes is marked Attachment 'B'.

9. I have included with Attachment 'A' copies of Chapter 775 and 1049, Sessions Laws of 1967. I include Chapter 775, because it contains the same provision initially enacted as Chapter 262, Session Laws of 1965 (Attachment E). Chapter 775 indicates clearly that it is a rewrite of Chapter 163 of the North Carolina General Statutes (Election Laws). I include Chapter 1049 because it provided changes in the boundaries of numerous solicitorial districts. Chapters 775 and 1049 were the only submitted 1967 enactments which in any way related to election of judges or solicitors.

10. I have included with Attachment 'B' a copy of Chapter 1190, Session Laws of 1969, because it contains the same provisions initially enacted as Chapter 997, Session Laws of 1967 (Attachment F).

11. I intended for my submission of Chapter 775, Session Laws of 1967, to serve as a submission of the provisions of Chapter 262, Session Laws of 1965; and I intended for my submission of Chapter 1190, Session Laws of 1969 to serve as a submission of the provisions of Chapter 997, Session Laws of 1967.

12. I received a response to each letter from the United States Department of Justice, one response dated April 20, 1971, and one response dated April 23, 1971. (Attachments 'C' and 'D' respectively).

13. The April 23, 1971, response is clearly intended as a response to my letter including 1967 legislation, because it refers to Chapter 1063, Session Laws of 1967, to which my letter also referred.

14. Both letters made reference to legislation in some way affecting election of judges or solicitors.

15. The April 20, 1971, response approved all submitted enactments relating to the State's judiciary and all other legislation as well, except for Chapter 750, Session Laws of 1969, which

imposed literacy requirements in connection with voter registration.

16. The April 23, 1971, response approved all submitted legislation, with the exception of Chapter 1063, Session Laws of 1967, relating to numbered seats, and with the further exception of submitted legislation which in part changed solicitorial district boundaries by requiring them to be coterminous with the boundaries of judicial districts. The letter advised me that "changes in the North Carolina court system were not subject to Section 5 of the Voting Rights Act" and thus had not been reviewed.

17. I took the letter of April 23rd at face value and accepted the determination of the United State's Attorney General that changes in the court system were not subject to Section 5.

18. Subsequently, my submission of elections legislation affecting the judiciary were sporadic, in what I believed that were unnecessary, because of the letter of April 23, 1971.

19. I normally made independent judgments as to whether legislation needed to be submitted under Section 5, without conferring with the State's attorneys, but on occasion, if one of those attorneys would specifically mention new legislation affecting election of Judges and request that it be submitted out of an abundance of caution, I would submit that legislation.

20. The attachments to which I have referred, Attachments A-F, are incorporated into this Affidavit as if a part hereof.

Executed at Raleigh, North Carolina, this the 16th day of May, 1985.

Alex K. Brock
Executive Secretary-Director
State Board of Elections

STATE OF NORTH CAROLINA

COUNTY OF WAKE

Sworn to and subscribed to before me this 16th day of May, 1985.

_____
Notary Public

My commission expires: October 31, 1989.

ATTACHMENT A

February 18, 1971

Honorable John N. Mitchell
United States Attorney General
Justice Department
Washington, D.C.

Re: Submission of Election Laws;
State of North Carolina;
effected by 1967 General Assembly

Dear Mr. Mitchell:

Pursuant to the provisions of Section 5 of the Voting Rights Act of 1965 (Public Law 89-110), as amended in 1970, we submit the following documents relating to Chapter 163 of the General Statutes of North Carolina as the same was amended by Acts passed during the 1967 Session of the North Carolina General Assembly:

1. Chapter 761 - SL 1967
2. Chapter 775 - SL 1967
3. Chapter 851 - SL 1967
4. Chapter 952 - SL 1967
5. Chapter 1049 - SL 1967
6. Chapter 1063 - SL 1967
7. Chapter 1264 - SL 1967

8. Chapter 1270 - SL 1967
9. Chapter 1271 - SL 1967
10. 1963 Election Laws
11. 1966 Election Laws
12. 1967-1968 Election Laws
13. Report of Election Laws Revision Commission to the General Assembly of 1967

Honorable John N. Mitchell

February 18, 1971

Very truly yours,

Alex K. Brock
Executive Secretary

CERTIFICATE OF SERVICE

The undersigned certifies that he has served the foregoing Statement together with copies of the Acts and Amendments listed, along with copies of the 1963 Election Laws, the 1966 Election Laws, the 1967-1968 Election Laws, the 1970-1971 Election Laws of the State of North Carolina and the Report of the Election Laws Revision Commission to the General Assembly of 1967, on the Honorable John N. Mitchell, U.S. Attorney General, Justice Department, Washington, D.C., by depositing same in the U.S. Mail, Registered Mail with Return Receipt Requested, postage prepaid.

The 18th day of February, 1971.

_____

Executive Secretary, N.C. State Board of Elections

ATTEST:

_____

Notary Public

Chapter 775, (North Carolina) Session Laws of 1967

Note: Because of the voluminous nature of Chapter 775, the full text of the enactment is not included herein, because it is unnecessary to a determination of the issues under consideration herein. It is available from the record.

The portion of Chapter 775 which includes the provision originally enacted as Chapter 262, North Carolina Session Laws of 1965, is N.C. Gen.Stat. §163-106(d) and reads as follows:

(d) Notice of Candidacy for Certain Offices to Indicate Vacancy. In any primary in which there are two or more vacancies for Chief Justice and associate Justices of the Supreme Court, or two vacancies for United State Senator from North Carolina, or two or more vacancies for the office of Superior Court Judge to be filled by nominations, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which he seeks nomination. Votes cast for a candidate shall be effective only for his nomination to the vacancy for which he has given notice of candidacy as provided in this subsection.

A person seeking party nomination for a specialized district judgeship established under §7A-147 shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the specialized judgeship to which he seeks nomination.

Chapter 1049, (North Carolina) Session Laws of 1967

S. B. 308 **CHAPTER 1049**

AN ACT TO MAKE SOLICITORIAL DISTRICTS IDENTICAL WITH SUPERIOR COURT JUDICIAL DISTRICTS, TO PROVIDE THAT THE OFFICE OF SOLICITOR SHALL BE A FULL-TIME OFFICE, TO PROVIDE THAT SOLICITORS SHALL PROSECUTE ALL CRIMES IN THE SUPERIOR AND DISTRICT COURTS OF THE STATE, TO ABOLISH THE OFFICE OF DISTRICT COURT PROSECUTOR, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina do enact:

Section 1. The following new article is hereby inserted in Subchapter III of Chapter 7A of the General Statutes:

"Article 9. Solicitors and Solicitorial Districts

Sec. 7A-60. Solicitors and Solicitorial Districts. Effective January 1, 1971, the State shall be divided into solicitorial districts, the numbers and boundaries of which shall be identical with those of the superior court judicial districts. In the general election of November, 1970, a solicitor shall be elected for a four-year term for each solicitorial district. The solicitor shall be a resident of the district for which elected, and shall take office on January 1 following his election. A vacancy in the office of solicitor shall be filled as provided in Article IV, Section 17 of the Constitution.

Sec. 7A-61. Duties of Solicitor. The solicitor shall prosecute in the name of the State all criminal actions requiring prosecution in the superior and district courts of his district, advise the officers of justice in his district, and perform such duties related to appeals to the Appellate Division from his district as the Attorney General may require. Each solicitor shall devote his full time to the duties of his office and shall not engage in the private practice of law.

Sec. 7A-62. Acting Solicitor. When a solicitor becomes for any reason unable to perform his duties, the Governor shall appoint an acting solicitor to serve during the period of disability. An acting solicitor has all the power, authority and duties of the regular solicitor. He shall take the oath of office prescribed for the regular solicitor, and shall receive the same compensation as the regular solicitor.

Sec. 7A-63. Assistant Solicitors. Each solicitor shall be entitled to the number of full-time assistant solicitors set out in G.S. 7A-133, to be appointed by the solicitor, for the same term of office as the solicitor. A vacancy in the office of assistant solicitor shall be filled in the same manner as the initial appointment, for the remainder of the unexpired term. An assistant solicitor shall take the same oath of office as the solicitor, and shall perform such duties as may be assigned by the solicitor. He shall devote his full time to the duties of his office and shall not engage in the private practice of law during his term.

Sec. 7A-64. Temporary Assistance When Dockets Overcrowded. When criminal cases accumulate on the dockets of the superior or district courts of a district beyond the capacity of the solicitor and his full-time assistants to keep the dockets reasonably current, the Administrative Officer of the Courts may, on request of the solicitor, supported by facts indicating the need for assistance:

(1) temporarily assign an assistant solicitor from another district, after consultation with the solicitor thereof, to assist in the prosecution of cases in the requesting district; or

(2) authorize the temporary appointment, by the requesting solicitor, of a qualified attorney to assist the requesting solicitor.

The length of service and compensation of such temporary appointee shall be fixed by the Administrative Officer of the Courts in each case.

Sec. 7A-65. Compensation and Allowances of Solicitors and Assistant Solicitors. The annual salary of solicitors and full-time assistant solicitors shall be as provided in the Budget Appropriations Act. When traveling on official business, each solicitor and assistant solicitor is entitled to reimbursement for his subsistence and travel expenses to the same extent as State employees generally.

Sec. 7A-66. Removal of Solicitors and Assistant Solicitors. A solicitor or assistant solicitor may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district court judge.

Sec. 7A-67. Effective Date. Except as otherwise provided in Sec. 7A-60, this article shall become effective January 1, 1971."

Sec. 2. G.S. 7-44 is hereby rewritten to read as follows:

"G.S. 7-44. Solicitors; Compensation. Effective July 1, 1967, solicitors shall receive, as full compensation for their services as solicitors, thirteen thousand dollars ($13,000.00) per year, except that solicitors who qualify July 1, 1968 as full-time solicitors under G.S. 7-45(b), shall receive fifteen thousand dollars ($15,000.00) per year. The salaries set forth in this Section shall be in lieu of fees or other compensation, except the expenses allowed in G.S. 7-45."

Sec. 3. Effective July 1, 1967, G.S. 7-45 is rewritten to read as follows:

"G.S. 7-45. Travel and Office Expenses of Solicitors. (a) In

addition to the salary set forth in G.S. 7044, each solicitor shall receive the sum of three thousand dollars ($3,000.00) per year, as reimbursement for all of his travel and subsistence expenses while engaged in duties connected with his office. This sum shall be paid in equal monthly installments out of the State treasury upon warrants duly drawn thereon.

(b) Solicitors in the following districts may elect to become full-time State employees on July 1, 1968, provided they discontinue the private practice of law and so certify to the Administrative Officer of the Courts by that date: the second, the third, the fourth, the fifth, the sixth, the seventh, the eighth, the ninth, the tenth, ten-A, the eleventh, the twelfth, the thirteenth, fourteen-A, the fifteenth, the sixteenth, the eighteenth, and the nineteenth. Solicitors who qualify under this subsection are entitled to a State allowance of not to exceed four hundred dollars ($400.00) per month per solicitor, to be used to reimburse the solicitor for actual expenditures for office rent, secretarial service, telephone bills, postage, and similar expenses of his office. Reimbursement shall be in accordance with regulations issued by the Administrative Office of the Courts."

Sec. 4. G.S. 7A-160 is amended by rewriting the first sentence thereof to read as follows: "The senior resident superior court judge shall appoint, for a term of four years, a district court prosecutor for his district, except that the term of office of a prosecutor appointed in a district activated in December, 1968, or December, 1970, is terminated December 31, 1970."

Sec. 5. Amendments Effective January 1, 1971. Effective January 1, 1971:

(1) G.S. 7A-132 is amended by changing the word "prosecutors" at two places in the caption to "solicitors," by changing the word "prosecutor" at the end of the first sentence to "solicitor," and by changing the word "prosecutors" at the end of the third sentence to "solicitors";

(2) G.S. 7A-133 is amended in the caption and in the first sentence by changing the word "prosecutors" to "solicitors," and in the heading of the chart by changing the words "Asst. Pros.," to "Asst. Solicitors";

(3) G.S. 7A-300(a)(4) is amended by deleting the words "prosecutors, assistant prosecutors, acting prosecutors,";

(4) G.S. 7A-304(a)(2) is amended by deleting the word "prosecutors" in line 10;

(5) G.S. 7A-343(2) is amended by deleting the word "prosecutors"; and

(6) G.S. 7A-345 is amended by deleting the word "prosecutors."

Sec. 6. Statutes Repealed. G.S. 7-44 (as rewritten herein), 7-45 (as amended herein), 7-68(b), 7A-43.1, 7A-43.2, 7A-43.3, 7A-160 through 7A-165 (Article 15), and all other laws and clauses of laws in conflict with this Act, are repealed effective January 1, 1971.

Sec. 7. Partial Invalidity. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 8. Except as otherwise provided in this Act, this Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1967.

Attachment B

February 18, 1971

Honorable John N. Mitchell
United States Attorney General
Justice Department
Washington, D.C.

Re: Submission of Election Laws;
State of North Carolina;
effected by 1969 General Assembly

Dear Mr. Mitchell:

Pursuant to the provisions of Section 5 of the Voting Rights Act of 1965 (Public Law 89-110), as amended in 1970, we submit the following documents relating to Chapter 163 of the General Statutes of North Carolina as the same was amended by Acts passed during the 1969 Session of the North Carolina General Assembly:

1. Chapter 24 —SL 1969
2. Chapter 44 —SL 1969
3. Chapter 171 —SL 1969
4. Chapter 175 —SL 1969
5. Chapter 208 —SL 1969
6. Chapter 408 —SL 1969
7. Chapter 570 —SL 1969
8. Chapter 750 —SL 1969
9. Chapter 917 —SL 1969
10. Chapter 949 —SL 1969
11. Chapter 971 —SL 1969
12. Chapter 1190—SL 1969
13. Chapter 1280—SL 1969
14. 1970-1971 Election Laws

Very truly yours,

Alex K. Brock
Executive Secretary

CERTIFICATE OF SERVICE

The undersigned certifies that he has served the foregoing Statement together with copies of the Acts and Amendments listed, along with copies of the 1963 Election Laws, the 1966 Election Laws, the 1967-1968 Election Laws, the 1970-1971 Election Laws of the State of North Carolina and the Report of the Election Laws Revision Commission to the General Assembly of 1967, on the Honorable John N. Mitchell, U.S. Attorney General, Justice Department, Washington, D.C., by depositing same in the U.S. Mail, Registered Mail with Return Receipt Requested, postage prepaid.

This 18th day of February, 1971.

_____

Executive Secretary,
N.C. State Board of Elections

ATTEST:

_____

Notary Public

H.B. 1221 **CHAPTER 1190**

AN ACT TO EXTEND THE DISTRICT COURT SYSTEM TO SEVENTEEN ADDITIONAL COUNTIES, TO MAKE CERTAIN ADDITIONS AND REVISIONS TO GENERAL STATUTES CHAPTER 7A ("THE JUDICIAL DEPARTMENT"), TO REPEAL, REVISE, OR TRANSFER VARIOUS SECTIONS OF GENERAL STATUTES CHAPTER 7 ("COURTS"), AND FOR OTHER RELATED PURPOSES.

The General Assembly of North Carolina do enact:

Section 1. G.S. 7A-6(a) is amended by deleting from the first sentence the words "a reporter" and inserting in lieu thereof the words "one or more reporters"; by deleting from the second and third sentences the word "reporter" and inserting in lieu thereof the word "reporters"; and by deleting the last sentence. G.S. &A-6(c) is amended by inserting after the word "clerk" in line four the words "each district court prosecutor,".

Sec. 2. G.S. 7A-11 is amended by inserting at the end of subsection (a) a sentence to read as follows: "Before entering upon the duties of his office, the clerk shall take the oath of office prescribed by law.", and by deleting subsection (b).

Sec. 3. G.S. 7A-16 is amended by rewriting the last sentence of the first paragraph to read as follows: "Before entering upon the duties of his office, a judge of the Court of Appeals shall take the oath of office prescribed for a judge of the General Court of Justice."

Sec. 4. G.S. 7A-42 is renumbered G.S. 7A-40, and the following new section is inserted immediately thereafter:

"G.S. 7A-41. *Superior Court Divisions and Districts; judges; assistant solicitors.* The counties of the state are organized into four judicial divisions and 30 judicial districts, and each district has the counties, the number of regular resident superior court judges, and the number of full-time assistant solicitors set forth in the following table:

Judicial Division	Judicial District	Counties	No. of Resident Judges	No. of Full-time Asst. Solicitors
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	1	1
	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1	1

	3	Carteret, Craven, Pamlico, Pitt	1	2
	4	Duplin, Jones, Onslow, Sampson	1	2
	5	New Hanover, Pender	1	2
	6	Bertie, Halifax, Hertford, Northampton	1	1
	7	Edgecombe, Nash, Wilson	1	2
	8	Greene, Lenoir, Wayne	1	2
Second	9	Franklin, Granville, Person Vance, Warren	1	1
	10	Wake	2	4
	11	Harnett, Johnston, Lee	1	2
	12	Cumberland, Hoke	2	4
	13	Bladen, Brunswick, Columbus	1	1
	14	Durham	1	2
	15	Alamance, Chatham, Orange	1	3
	16	Robeson, Scotland	1	2
Third	17	Caswell, Rockingham, Stokes, Surry	1	2
	18	Guilford	3	5
	19	Cabarrus, Montgomery, Randolph, Rowan	2	3
	20	Anson, Moore, Richmond, Stanly, Union	1	2
	21	Forsyth	2	4
	22	Alexander, Davidson, Davie, Iredell	1	2
	23	Alleghany, Ashe, Wilkes, Yadkin	1	1
Fourth	24	Avery, Madison, Mitchell, Watauga, Yancey	1	1
	25	Burke, Caldwell, Catawba	1	3
	26	Mecklenburg	3	6
	27	Cleveland, Gaston, Lincoln	2	5
	28	Buncombe	2	2
	29	Henderson, McDowell, Polk, Rutherford, Transylvania	1	2
	30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain	1	1

In a district having more than one regular resident judge, the judge who has the most continuous service on the superior court is the senior regular resident superior court judge. If two judges are of equal seniority, the oldest judge is the senior regular resident judge. In a single judge district, the single judge is the senior regular resident judge.

Senior regular resident judges and regular resident judges possess equal judicial jurisdiction, power, authority and status, but all duties placed by the Constitution or statutes on the resident judge of a judicial district, including the appointment to and removal from office, which are not related to a case, controversy, or judicial proceeding and which do not involve the exercise of judicial power, shall be discharged by the senior regular resident judge. A senior regular resident superior court judge in a multi-judge district, by notice in writing to the Administrative Officer of the Courts, may decline to exercise the authority vested in him by this Section, in which event such authority shall be exercised by the regular resident judge next senior in point of service or age, respectively.

Full-time assistant solicitors are not authorized under this Section until January 1, 1971."

Sec. 5. G.S. 7A-61 is amended by inserting after the first sentence the following: "Effective January 1, 1971, the solicitor shall also represent the State in juvenile cases in which the juvenile is represented by an attorney."

Sec. 6. G.S. 7A-63 is amended by deleting "G.S. 7A-133" in line two, and inserting in lieu thereof "this subchapter."

Sec. 7. G.S. 7A-95 is amended by the insertion of the following sentence at the end of subparagraph (c): "If stenotype, shorthand, or stenomask equipment is used, the original tapes, notes, discs or other records are the property of the State, and the clerk shall keep them in his custody."

Sec. 8. G.S. 7A-102.1 is amended by inserting in line two of subsection (a), after the word "State", a comma and the words "secretaries to superior court judges and solicitors," and by deleting from the first sentence of subsection (b) the words "office of the clerk of the superior court" and inserting in lieu thereof the words "Judicial Department".

Sec. 9. G.S. 7A-103 is amended by deleting from the first first sentence the words "and the Department of Administration."

Sec. 10. G.S. 7A-133 is amended as follows:

(a) In the first sentence delete the words "and full-time assistant prosecutors" and in the table heading delete the words "Full-Time Assistant Prosecutors" and the numbers under this heading, effective January 1, 1971;

(b) In the table, increase "3" to "4" the number of judges to which the 25th Judicial District is entitled, effective the first Monday in December, 1966; increase from "6" to "7" the number of judges to which the 18th and 26th judicial districts are entitled, effective the first Monday in December, 1968; increase from "3" to "4" the number of full-time assistant prosecutors to which the 18th and 26th judicial districts are entitled; and increase from "0" to "1" the number of full-time assistant prosecutors to which the 14th judicial district is entitled;

(c) In the table, delete the present minimum and maximum quotas of magistrates for Stanly, Anson, Richmond, Moore, Duplin, Beaufort, Onslow, Pitt, Johnston, Harnett, and Guilford counties, and insert the following quotas in lieu thereof:

"Duplin	9	10
Stanly	5	6
Anson	4	5
Richmond	5	6
Moore	5	6
Beaufort	4	5
Onslow	8	10
Pitt	9	11
Johnston	10	12
Harnett	7	9
Guilford	17	22."

(d) In the table increase from "1" to "2" the number of full-time assistant prosecutors for the 27th Judicial District;

(e) In the table, insert consecutively by judicial district numbers, the following allowances of judges and magistrates, and additional seats of court:

"District	Judges	County	Magistrates Min.-Max.	Add. Seats of Court
17	4	Caswell	2-3	
		Rockingham	4-8	Reidsville Eden Madison
		Stokes	2-3	
		Surry	4-6	Mt. Airy
19	5	Cabarrus	4-7	Kannapolis
		Montgomery	2-3	
		Randolph	4-6	
		Rowan	4-8	
22	4	Alexander	2-3	
		Davidson	5-7	Thomasville
		Davie	2-3	
		Iredell	4-6	Mooresville
23	2	Alleghany	1-2	
		Ashe	2-3	
		Wilkes	4-6	
		Yadkin	2-3	
28	4	Buncombe	6-10	

(f) Session Laws of 1967, Chapter 1049, Section 5(2), which would have amended this Section effective January 1, 1971, is repealed.

Sec. 11. G.S. 7A-140 is amended by rewriting the last paragraph to read as follows:

"Before entering upon his duties, each district judge, in addition to other oaths prescribed by law, shall take the oath of office prescribed for a judge of the General Court of Justice."

Sec. 12. G.S. 7A-160 is amended in line ten by inserting after the fourth sentence the following: "The prosecutor shall also represent the State in juvenile cases in which the juvenile is represented by an attorney."

Sec. 13. G.S. 7A-170 is amended by rewriting the second sentence to read as follows: "Before entering upon the duties of his office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court of Justice."

Sec. 14. G.S. 7A-180 is amended by rewriting subparagraph

"(c)" to read as follows: "(3) Immediately sets up and thereafter maintains, under the supervision of the Administrative Office of the Courts, an office of uniform consolidated records of all judicial proceedings in the superior court division and the district court division of the General Court of Justice in his county. Those records shall include civil actions, special proceedings, estates, criminal actions, juvenile actions, minutes of the court and all other records required by law to be maintained. The form and procedure for filing, docketing, indexing, and recording shall be as prescribed by the Administrative Officer of the Courts notwithstanding any contrary statutory provision as to the title and form of the record or as a method of indexing."; and by deleting subparagraph (4) and renumbering subparagraphs (5), (6), (7), and (8) as subparagraphs (4), (5), (6) and (7), respectively.

Sec. 15. G.S. 7A-182 is amended by inserting at the end of subsection (b) the following sentence: "An assistant or deputy clerk assigned to a seat of district court described in this subsection shall have the same powers and authority as if he were acting in his own county."

Sec. 16. G.S. 7A-192 is amended by deleting the period at the end of the second sentence and inserting in lieu thereof a comma and the words "including causes transferred from the superior court to the district court under the provisions of this chapter."

Sec. 17. G.S. 7A-193 is amended by deleting "Chapter 1" in lines two and four, and inserting in lieu thereof "Chapters 1 and 1A".

Sec. 18. G.S. 7A-198 is amended by the insertion of the following sentence at the end of subparagraph (c): "If stenotype, shorthand, or stenomask equipment is used, the original tapes, notes, discs, or other records are the property of the state, and the clerk shall keep them in his custody."

Sec. 19. G.S. 7A-213 is amended by rewriting the fifth sentence to read as follows: "After service of the magistrate summons on the defendant, the clerk gives written notice of the assignment to the plaintiff."

Sec. 20. G.S. 7A-217 is amended by adding the following

subparagraph at the end thereof: "(4) In summary ejectment cases only, service as provided in G.S. 42-29 is also authorized."

Sec. 21. G.S. 7A-224 is amended by rewriting the second and third sentences thereof to read as follows: "The judgment so rendered is a judgment of the district court, and is recorded and indexed as are judgments of the district and superior court generally."

Sec. 22. G.S. 7A-228 is amended by rewriting the third sentence to read as follows: "Appeal is perfected by serving written notice thereof on all other parties and by filing written notice with the clerk of superior court within 10 days after rendition of judgment."

Sec. 22 1/2. G.S. 7A-258(a) is amended by adding a sentence thereto, to read as follows: "A motion to transfer to another division may also be made if all parties to the action or proceeding consent thereto, and if the judge deems the transfer will facilitate the efficient administration of justice."

Sec. 23. G.S. 7A-271(a) is amended by deleting the word "or" at the end of subparagraph (3), changing the period at the end of subparagraph (4) to a semicolon, inserting the word "or", and adding a new subparagraph, to read as follows:

"(5) When a misdemeanor conviction is appealed to the superior court for trial de novo, to accept a guilty plea to a lesser-included or related charge".

Sec. 24. G.S. 7A-271 is amended by renumbering subsection (b) as subsection (c), and inserting a new subsection (b), to read as follows:

"(b) The jurisdiction of the superior court over misdemeanors appealed from the district court to the superior court for trial do novo is the same as the district court had in the first instance."

Sec. 25. G.S. 7A-273 is amended by deleting from subparagraph (5) the words "peace and".

Sec. 26. G.S. 7A-288 is amended by inserting the words "in writing" in line three, in the second sentence, after the word "clerk", and by deleting the fourth sentence, which reads: "An appeal may be withdrawn within 20 days after notice of appeal

is given, or 10 days before the next criminal session of superior court convenes, whichever is later."

Sec. 27. G.S. 7A-291 is amended in subparagraph (5) by inserting the words "peace and" after the words "State, and".

Sec. 28. G.S. 7A-304(a) is amended in subparagraph (1) by inserting the words "and subpoenas" after the words "including citations".

Sec. 29. G.S. 7A-304(b) is amended by deleting the following words from lines three through seven: "if an appeal from the district court to the superior court is withdrawn within 20 days after notice of appeal is given, or 10 days before the next criminal session of superior court convenes, whichever is later, only the district court costs shall be assessed, and further,"

Sec. 30. G.S. 7A-307(b) is rewritten to read as follows: "(b) The facilities fee and eight dollars ($8.00) of the General Court of Justice fee shall be paid at the time of filing of the first inventory. If the sole asset of the estate is a cause of action, the ten dollars ($10.00) shall be paid at the time of the qualification of the fiduciary."

Sec. 31. G.S. 7A-308(a) is amended in subparagraph (12) by changing the fee for preparation of copies from "1.00" to ".50", and by rewriting subparagraph (8) to read as follows: "(8) Taking an acknowledgment or administering an oath, or both, with or without seal, each certificate (except that oaths of office shall be administered to public officials without charge) 1.00."

Sec. 31 1/2. G.S. 7A-311(a) is amended by inserting "by the sheriff" after "sales" in line one of subparagraph (3), by deleting subparagraph (5), and by renumbering subparagraph (6) as subparagraph (5).

Sec. 32. G.S. 7A-312 is amended by rewriting the first sentence to read as follows: "A juror in the General Court of Justice, including a coroner's juror, but excluding a juror in a special proceeding, shall receive eight dollars ($8.00) per day.", and by deleting the words "in lieu of daily mileage" in the second sentence.

Sec. 33. G.S. 7A-313 is amended in line three by deleting "two dollars ($2.00)" and inserting in lieu thereof "three dollars ($3.00)".

Sec. 34. G.S. 7A-314 is amended by changing the period at the end of the second sentence to a comma, and adding "except that a witness required to remain overnight at the site of the trial shall be furnished subsistence in lieu of daily mileage."

Sec. 34 1/2. G.S. 7A, Article 28, is amended by inserting a new Section to read as follows:

"G.S. 7A-317.1. *Disposition of fees in counties with unincorporated seats of court.* Notwithstanding any other provision of this Article, if a municipality listed in G.S. 7A-133 as an additional seat of district court is not incorporated, the arrest, facilities, and jail fees which would ordinarily accrue thereto, shall instead accrue to the county in which the unincorporated municipality is located."

Sec. 35. G.S. 1-282 is amended by deleting from the last sentence the colon and the words "approved" and a sentence as follows: "If it appears that the case on appeal cannot be served within the time prescribed above, the trial judge may, for good cause and after reasonable notice to the opposing party or counsel, enter an order or successive orders extending the time for service of the case on appeal and of the countercase or exceptions to the case on appeal. The initial order of extension must be entered prior to expiration of the statutory time for service of the case on appeal, and any subsequent order of extension must be entered prior to the expiration of the time allowed by the preceding order, and all additional time or times granted in such order or orders of extension must terminate within sufficient time to enable appellant to docket the record on appeal in accordance with the requirements of the rules of the appellate court."

Sec. 36. G.S. 7-42 is revised, renumbered, and transferred to Chapter 7A to read as follows:

"G.S. 7A-44. *Salary and expenses of superior court judge.* A judge of the superior court, regular or special, shall receive the annual salary set forth in the Budget Appropriations Act, and in addition shall be allowed five thousand dollars

($5,000.00) per year, payable monthly, in lieu of necessary travel and subsistence expenses while attending court or transacting official business at a place other than in the county of his residence and in lieu of other professional expenses incurred in the discharge of his official duties. The Administrative Officer of the Courts may also reimburse superior court judges, in addition to the above funds for travel and subsistence, for travel and subsistence expenses incurred outside of the state for professional education."

Sec. 37. G.S. 7-44 is amended in line three by inserting after the date "July 1, 1968" the words "or July 1, 1969".

Sec. 38. G.S. 7-45(b) is amended by inserting after "July 1, 1968," in line two the words and figures "or July 1, 1969,".

Sec. 39. G.S. 7-52 is revised, renumbered, and transferred to Chapter 7A, to read as follows:

G.S. 7A-48. *Jurisdiction of emergency judges.* Emergency superior court judges have the same power and authority in all matters whatsoever, in the courts which they are assigned to hold, that regular judges holding the same courts would have. An emergency judge duly assigned to hold the courts of a county or judicial district has the same powers in the district in open court and in chambers as the resident judge or any judge regularly assigned to hold the courts of the district would have, but his jurisdiction in chambers extends only until the session is adjourned or the session expired by operation of law, whichever is later."

Sec. 40. G.S. 7-58 is revised, renumbered, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-49. *Orders returnable to another judge; notice.* When any special or emergency judge makes any matter returnable before him, and thereafter he is called upon by the Chief Justice to hold court elsewhere, he shall order the matter heard before some other judge, setting forth in the order the time and place where it is to be heard, and he shall send copies of the order to the attorneys representing the parties in such matter."

Sec. 41. G.S. 7-54, G.S. 7-55, G.S. 7-58, and G.S. 7-60 are rewritten, combined, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-45. *Special judges; appointment; removal; vacancies; authority.* (a) The Governor may appoint eight special superior court judges. A special judge takes the same oath of office and is subject to the same requirements and disabilities as is or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district. Initial appointments made under this Section shall be to terms of office beginning July 1, 1967, and expiring June 30, 171. As the terms expire, the Governor may appoint successors for terms of four years each.

(b) A special judge is subject to removal from office for the same causes and in the same manner as a regular judge of the superior court, and a vacancy occurring in the office of special judge is filled by the Governor by appointment for the unexpired term.

(c) A special judge, in any court in which he is duly appointed to hold, has the same power and authority in all matters whatsoever that a regular judge holding the same court would have. A special judge, duly assigned to hold the court of a particular county, has during the session of court in that county, in open court and in chambers, the same power and authority of a regular judge in all matters whatsoever arising in that judicial district that could properly be heard or determined by a regular judge holding the same session of court.

(d) A special judge is authorized to settle cases on appeal and to make all proper orders in regard thereto after the time for which he was commissioned has expired."

Sec. 42. G.S. 7-61.1 is revised, renumbered, and transferred to Chapter 7A, to read as follows:

G.S. 7A-47. *Powers of regular judges holding courts by assignment or exchange.* A regular superior court judge, duly assigned to hold the courts of a county, or holding such courts by exchange, shall have the same powers in the district in open court and in chambers as the resident judge or any judge regularly assigned to hold the courts of the district has, and his

jurisdiction in chambers shall extend until the session is adjourned or the session expired by operation of law, whichever is later."

Sec. 43. G.S. 7-62 is revised, renumbered, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-49.1. *Disposition of motions when judge disqualified.* Whenever a judge before whom a motion is made, either in open court or in chambers, disqualifies himself from determining it, he may in his discretion refer the motion for disposition to the resident judge or any judge regularly holding the courts of the district or of any adjoining district, who shall have full power and authority to hear and determine the motion in the same manner as if he were the presiding judge of the district in which the cause arose."

Sec. 44. G.S. 7-72 and G.S. 7-73 are revised, combined, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-49.2. *Civil business at criminal sessions; criminal business at civil sessions.* (a) At criminal sessions of court, motions in civil actions may be heard upon due notice, and trials in civil actions may be heard by consent of parties. Motions for confirmation or rejection of referees' reports may also be heard upon ten days notice and judgment may be entered on such reports. The court may also enter consent orders and consent judgments, and try uncontested civil actions and uncontested divorce cases.

(b) For sessions of court designated for the trial of civil cases only, no grand juries shall be drawn and no criminal process shall be made returnable to any civil session."

Sec. 45. G.S. 7-73.1 is revised, renumbered, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-49.3. *Calendar for criminal trial sessions.* (a) At least one week before the beginning of any sessions of the superior court for the trial of criminal cases, the solicitor shall file with the clerk of superior court a calendar of the cases he intends to call for trial at that session. The calendar shall fix a day for the trial of each case listed thereon. The solicitor may place on the calendar for the first day of the session all cases which will require consideration by the grand jury without ob-

ligation to call such cases for trial on that day. No case on the calendar may be called for trial before the day fixed by the calendar except by consent or by order of the court. Any case docketed after the calendar has been filed with the clerk may be placed on the calendar at the discretion of the solicitor.

(b) All witnesses shall be subpoenaed to appear on the date listed for the trial of the case in which they are witnesses. Witnesses shall not be entitled to prove their attendance for any day or days prior to the day on which the case in which they are witnesses is set for trial, unless otherwise ordered by the presiding judge.

(c) Nothing in this Section shall be construed to affect the authority of the court in the call of cases for trial."

Sec. 46. G.S. 7-78, G.S. 7-80, and G.S. 7-83 are revised, combined, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-46. *Special sessions.* Whenever it appears to the Chief Justice of the Supreme Court that there is need for a special session of superior court in any county, he may order a special session in that county, and order any regular, special, or emergency judge to hold such session. The Chief Justice shall notify the clerk of superior court of the county, who shall initiate action under Chapter 9 of the General Statutes to provide a jury for the special session, if a jury is required.

Special sessions have all the jurisdiction and powers that regular sessions have."

Sec. 47. G.S. 7-65 is revised, renumbered, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-47.1. *Jurisdiction in vacation or in session.* In any case in which the superior court in vacation has jurisdiction, and all the parties unite in the proceedings, they may apply for relief to the superior court in vacation, or during a session of court, at their election. The resident judge of the judicial district and any special superior court judge residing in the district and the judge regularly presiding over the courts of the district have concurrent jurisdiction in all matters and proceedings in which the superior court has jurisdiction out of session; Provided, that in all matters and proceedings not requiring a jury or in which a jury is waived, the resident judge of the district

and any special superior court judge residing in the district shall have concurrent jurisdiction with the judge holding the courts of the district and the resident judge and any special superior court judge residing in the district in the exercise of such concurrent jurisdiction may hear and pass upon such matters and proceedings in vacation, out of session or during a session of court."

Sec. 48. G.S. 7-70.2 is revised, renumbered, and transferred to Chapter 7A, to read as follows:

"G.S. 7A-42. *Sessions of superior court in cities other than county seats.*

"(a) Sessions of the superior court shall be held in each city in the State which is not a county seat and which has a population of 35,000 or more, according to the 1960 federal census.

(b) For the purpose of segregating the cases to be tried in any city referred to in subsection (a), and to designate the place of trial, the clerk of superior court in any county having one or more such cities shall set up a criminal docket and a civil docket, which dockets shall indicate the cases and proceedings to be tried in each such city in his county. Such dockets shall bear the name of the city in which such sessions of court are to be held, followed by the word 'Division.' Summons in actions to be tried in any such city shall clearly designate the place of trial.

(c) For the purpose of determining the proper place of trial of any action or proceeding, whether civil or criminal, the county in which any city described in subsection (a) is located shall be divided into divisions, and the territory embraced in the division in which each such city is located shall consist of the township in which such city lies and all contiguous townships within such county, such division of the superior court to be known by the name of such city followed by the word "Division." All other townships of any such county shall constitute a division of the suprior court to be known by the name of the county seat followed by the word "Division." All laws, rules, and regulations now or hereafter in force and effect in determining the proper venue as between the superior courts of the several counties of the State shall apply for the purpose of determining the proper place of trial as between such divi-

sions within such county and as between each of such divisions and any other county of the superior court in North Carolina.

(d) The clerk of superior court of any county with an additional seat of superior court may, but shall not be required to, hear matters in any place other than at his office at the county seat.

(e) The grand jury for the several divisions of court of any county in which a city described in subsection (a) is located shall be drawn from the whole county, and may hold hearings and meetings at either the county seat or elsewhere within the county as it may elect, or as it may be directed by the judge holding any session of superior court within such county; provided, however, that in arranging the sessions of the court for the trial of criminal cases for any county in which any such city is located a session of one week or more shall be held at the county seat preceding any session of one week or more to be held in any such city, so as to facilitate the work of the grand jury, and so as to confine its meetings to the county seat as fully as may be practicable. All petit jurors for all sessions of court in the several divisions of such county shall be drawn, as now or hereafter provided by law, from the whole of the county in which any such city is located for all sessions of courts in the several divisions of such county.

(f) Special sessions of court for the trial of either civil or criminal cases in any city described in subsection (a) may be arranged as by law now or hereafter provided for special sessions of the superior court.

(g) All court records of all such divisions of the superior court of any such county shall be kept in the office of the clerk of the superior court at the county seat, but they may be temporarily removed under the direction and supervision of the clerk to any such division or divisions. No judgment or order rendered at any session held in any such city shall become a lien upon or otherwise affect the title to any real estate within such county until it has been docketed in the office of the clerk of the superior court at the county seat as now or may hereafter be provided by law; provided, that nothing herein shall affect the provisions of G.S. 1-233 and the equities therein provided for shall be preserved as to all judgments and orders rendered at any session of the superior court in any such city.

(h) It shall be the duty of the board of county commissioners of the county in which any such city is located to provide a suitable place for holding such sessions of court, and to provide for the payment of the extra expense, if any, of the sheriff and his deputies in attending the sessions of court of any such division, and the expense of keeping, housing and feeding prisoners while awaiting trial."

Sec. 49. G.S. 7-76 is renumbered and rewritten to read as follows:

"G.S. 7A-96. *Court adjourned by sheriff when judge not present.* If the judge of a superior court shall not be present to hold any session of court at the time fixed therefor, he may order the sheriff to adjourn the court to any day certain during the session, and on failure to hear from the judge it shall be the duty of the sheriff to adjourn the court from day to day, unless he shall be sooner informed that the judge for any reason cannot hold the session."

Sec. 49 1/2. G.S. 9-2 is amended by adding the following paragraph thereto:

"The custodians of the appropriate property tax and election registration records in each county shall cooperate with the jury commission in its duty of compiling the list of jurors required by this Section."

Sec. 50. G.S. 11-11 is amended by deleting therefrom the oaths of "Judge of the Supreme Court" and "Judge of the Superior Court" and inserting in lieu thereof the oath of "Justice, Judge, or Magistrate of the General Court of Justice" which shall read as follows:

"I, _____, do solemnly swear (affirm) that I will administer justice without favoritism to anyone or to the State; that I will not knowingly take, directly or indirectly, any fee, gift, gratuity or reward whatsoever, for any matter or thing done by me or to be done by me by virtue of my office, except the salary and allowances by law provided; and that I will faithfully and impartially discharge all the duties of _____ of the _____ Division of the General Court of Justice to the best of my ability and understanding, and consistent with the Constitution and laws of the State; so help me, God."

Sec. 51. G.S. 11-11 is amended by rewriting the oath of the Clerk of the Supreme Court to read as follows:

"I, _____, do solemnly swear that I will discharge the duties of the office of Clerk of the Supreme Court without prejudice, affection, favor, or partiality, according to law and to the best of my skill and ability, so help me, God."

Sec. 51 1/2. G.S. 15-116 is amended by inserting "and district" after the word "superior" in line two.

Sec. 52. G.S. 84-16, as amended by Chapter 44 of Public Laws of 1969, ratified March 7, 1969, is hereby further amended by rewriting subparagraph (1) of paragraph three to read as follows: "(1) All justices, judges, full-time solicitors, and full-time prosecutors of the General Court of Justice who, at the time of their election or appointment, are members in good standing of the North Carolina State Bar;".

Sec. 53. G.S. 115-99 is amended by adding the following sentences to the end thereof: "This Section shall not apply in any county in which the district court has been established. This Section is repealed effective January 1, 1971."

Sec. 54. G.S. 147-45 is amended as follows:

(a) in the table of paragraph one by deleting the words "Supreme Court Reports" from the heading of the third column and inserting in lieu thereof the words "Appellate Division Reports"; by deleting the number "10" from the third column to the right of the words "Attorney General" and inserting in lieu thereof the number "11"; by deleting the number "7" from the third column to the right of the words "Industrial Commission" and inserting in lieu thereof the number "8"; by inserting the words "Judges of the Court of Appeals" after the words "Justices of the Supreme Court" and inserting "1 each" in the three columns to the right thereof; by inserting the words "Clerk of the Court of Appeals" after the words "Clerk of the Supreme Court" and inserting the number "1" in each of the first two columns and the number "0" in the third column thereafter; by inserting in the second page of the table after the words "State Library" the words "Legislative Building Library" and inserting in the columns to the right thereof the number "2"; by deleting the words "Supreme Court Reporter" and inserting in

lieu thereof the words "Appellate Division Reporter"; by deleting from page three of the table the words "Secretary of War" and inserting in lieu thereof the words "Secretary of Defense"; by deleting the words "Secretary of the Navy" and deleting the numbers from the columns thereafter; by deleting the words "Work Projects Administration" and deleting the numbers from the columns thereafter;

(b) In the text by deleting the words "Supreme Court Reports" from paragraphs one, three, and four and inserting in lieu thereof the words "Appellate Division Reports" wherever the former appears; by rewriting the first sentence of the second paragraph to read as follows: "Each justice of the Supreme Court and judge of the Court of Appeals shall receive for his private use one complete and up-to-date set of the Appellate Division Reports."; and by adding the words "or judge" after the word "justice" in the second sentence of the second paragraph.

Sec. 55. G.S. 147-51 is amended by deleting the first paragraph and, in the second paragraph, by deleting the words "Supreme Court Reports" and inserting in lieu thereof the words "Appellate Division Reports".

Sec. 56. G.S. 163-106 is amended by inserting in subsection (d) the words "or two or more vacancies for the office of district court judge" after the words "office of superior court judge".

Sec. 57. *Laws Repealed.* (a) G.S. 7A-17, 7A-36, 114-10, and 114-11 are repealed.

(b) The following Sections of G.S. Chapter 7 are repealed: 7-40, 7-41, 7-43, 7-46, 7-47, 7-48, 7-49, 7-57, 7-59, 7-61, 7-63, 7-64, 7-66, 7-67, 7-68(a), 7-68.1, 7-68.2, 7-68.3, 7-68.4, 7-68.5, 7-68.6, 7-68.7, 7-68.8, 7-68.9, 7-69, 7-77, 7-81, 7-82, 7-84, 7-85, 7-86, 7-87, 7-88, 7-92.1, 7-92.2, 7-92.3, 7-240, 7-241, 7-242, 7-296.1 through 296.18.

(c) G.S. Chapter 151 (Constables) is repealed effective January 1, 1971.

(d) All other laws and parts of laws in conflict with this Act are also repealed.

Sec. 58. *Partial invalidity.* If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 59. *Effective Date.* Except as otherwise provided in this Act, this Act shall become effective July 1, 1969.

In the General Assembly read three times and ratified, this the 1st day of July, 1969.

Attachment C

Department of Justice

WASHINGTON

April 20, 1971

Mr. Alex K. Brock
Executive Secretary
North Carolina State
Board of Elections
Suite 801, Raleigh Building
5 West Hargett Street
Raleigh, North Carolina 27601

Dear Mr. Brock:

This is in reference to your submission pursuant to Section 5 of the Voting Rights Act of 1965 of documents relating to Chapter 163 of the General Statutes of North Carolina amended during the 1969 Session of the North Carolina General Assembly.

The Attorney General will not at this time object to the implementation of any of the enactments submitted, except that the Attorney General does object to the implementation of that portion of Chapter 750 (Senate Bill 457) which imposes literacy requirements in connection with voter registration. This provision is contrary to Section 201 of the Voting Rights Act Amendments of 1970. Of course, this objection applies only to that part of the amended version of Section 163-67(a) requiring an applicant for voter registration to make a "written" and "signed" statement.

As you may know, Section 5 of the Voting Rights Act of 1965 offers you the alternative of initiating an action in the United States District Court for the District of Columbia for a declaratory judgment that the provision objected to does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

/s/ JERRIS LEONARD
Assistant Attorney General
Civil Rights Division

Attachment D

Department of Justice

WASHINGTON

April 23, 1971

Mr. Alex K. Brock
Executive Secretary
North Carolina
State Board of Elections
Suite 801, Raleigh Building
5 West Hargett Street
Raleigh, North Carolina 27601

Dear Mr. Brock:

This is to confirm your telephone conversation today with Walter Gorman of this Division concerning your submission pursuant to Section 5 of the Voting Rights Act of 1965 of documents relating to Chapter 163 of the General Statutes of North Carolina amended during the 1967 Session of the North Carolina General Assembly.

As Mr. Gorman explained, the Attorney General will not at this time object to the implementation of changes in voting procedure submitted, with the exception of Chapter 1063 which requires candidates in certain multi-member election districts to run for numbered seats in the State Senate and House of Representatives. After examining the submission, we have determined that the information sent to the Attorney General was insufficient to properly evaluate Chapter 1063. Because of this, the submission is not adequate for the Department to fulfill its responsibilities under federal law of determining the purpose and effect of the voting change.

Would you please assist us by providing this Department, as soon as possible, a copy of committee reports on Chapter 1063 and any other documents or statements which reflect the reasons for enacting this statute.

As you know, the Attorney General has a 60-day period to consider enactments submitted pursuant to Section 5. With respect to Chapter 1063, this time will begin to run upon receipt of the additional information we have requested.

Also, I must advise you that there were several statutes submitted, such as the changes in the North Carolina court system, which did not deal with voting practices or procedures and, thus, are not subject to Section 5 of the Voting Rights Act. These amendments to existing laws were not reviewed by this Division, and because Section 5 does not cover an enactment unless it changes in some way the previously existing statute, I have not reviewed those portions of Chapter 163 of the North Carolina Code which were not altered.

Sincerely,

/s/ DAVID L. NORMAN
Acting Assistant Attorney General
Civil Rights Division

Attachment E

H.B. 367 **CHAPTER 262**

AN ACT TO AMEND G.S. 163-147 SO AS TO MAKE THE SECTION APPLICABLE TO CANDIDATES FOR THE OFFICE OF SUPERIOR COURT JUDGE IN MULTIPLE JUDGE DISTRICTS.

The General Assembly of North Carolina do enact:

Section 1. G.S. 163-147 is hereby amended by inserting immediately after the words "North Carolina" and immediately before the word "to" in line three thereof the words: "or two or more vacancies in the office of Superior Court Judge in any judicial district".

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1965.

Attachment F

S.C. 557 **CHAPTER 997**

AN ACT TO PROVIDE FOR ADDITIONAL RESIDENT JUDGES IN THE TWELFTH, EIGHTEENTH, NINETEENTH, TWENTY-SIXTH AND TWENTY-EIGHTH JUDICIAL DISTRICTS.

The General Assembly of North Carolina do enact:

Section 1. There is hereby created the office of additional resident judge of each of the judicial districts designated as the twelfth, nineteenth and twenty-eighth, effective as of January 1, 1967.

Sec. 2. There is hereby created a second additional resident judgeship of the eighteenth and twenty-sixth judicial districts, effective as of January 1, 1967.

Sec. 3. The Governor shall appoint an additional resident judge for each of the twelfth, eighteenth, nineteenth, twenty-sixth, and twenty-eighth judicial districts, to take office July 1, 1967. The successors of the Governor's appointees shall be chosen in the manner prescribed by law for other Resident Superior Court Judges in the general election of 1968 to serve for the unexpired portion of the term of eight years which began as of January 1, 1967, and their successors shall be chosen thereafter in the manner and serve for terms as prescribed for other Resident Superior Court Judges.

Sec. 4. The present resident judges of the twelfth, nineteenth and twenty-eighth judicial districts shall be the senior resident judges of their respective judges.

Sec. 5. The additional resident judges of the twelfth, eighteenth, nineteenth, twenty-sixth, and twenty-eighth judicial districts shall, in respect to the exercise of judicial power, have equal jurisdiction, authority and status with the senior resident judges of such districts; but all duties placed by the Constitution or statutes on the resident judge of a judicial district, including the appointment to and removal from office, which are not related to a case, controversy, or judicial proceeding and which do not involve the exercise of judicial power, shall be discharged by the resident judge of the judicial district senior in

point of continuous service on the Superior Court; and if two judges be of equal seniority, then by the judge who is senior in point of age.

Sec. 6. There is hereby appropriated for each year of the biennium 1967-69, one hundred seventeen thousand five hundred dollars ($117,500.00) for the purposes set forth in the preceding Section of this bill.

Sec. 7. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 8. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1967.

APPENDIX G

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

U.S. Constitution, Fourteenth Amendment:

AMENDMENT XIV.

§ 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state herein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

§ 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

§ 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may by a vote of two-thirds of each house remove such disability.

§ 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

U.S. Constitution, Fifteenth Amendment:

AMENDMENT XV.

§ 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

§ 2. The congress shall have power to enforce this article by appropriate legislation.

42 U.S.C. 1973:

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), as provided in subsection (b).

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class

elected in numbers equal to their proportion in the population.

42 U.S.C. 1973c:

Whenever a State or political subdivision with respect to which the prohibition set forth in section 1973b(a) of this title based upon determinations made under the first sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibition set forth in section 1973b(a) of this title based upon determinations made under the third sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from in force or effect on November 1, 1972, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualifications, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after

such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to object, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure, In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court.

Chapter 262, (North Carolina) Session Laws of 1965:

H. B. 367 **CHAPTER 262**

AN ACT TO AMEND G. S. 163-147 SO AS TO MAKE THE SECTION APPLICABLE TO CANDIDATES FOR THE OFFICE OF SUPERIOR COURT JUDGE IN MULTIPLE JUDGE DISTRICTS.

The General Assembly of North Carolina do enact:

Section 1. G. S. 163-147 is hereby amended by inserting immediately after the words "North Carolina" and immediately before the word "to" in line three thereof the words: "or two or more vacancies in the office of Superior Court Judge in any judicial district".

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1965.

Chapter 997, (North Carolina) Session Laws of 1967:

S. B. 557 **CHAPTER 997**

AN ACT TO PROVIDE FOR ADDITIONAL RESIDENT JUDGES IN THE TWELFTH, EIGHTEENTH, NINETEENTH, TWENTY-SIXTH AND TWENTY-EIGHTH JUDICIAL DISTRICTS.

The General Assembly of North Carolina do enact:

Section 1. There is hereby created the office of additional resident judge of each of the judicial districts designated as the twelfth, nineteenth and twenty-eight, effective as of January 1, 1967.

Sec. 2. There is hereby created a second additional resident judgeship of the eighteenth and twenty-sixth judicial districts, effective as of January 1, 1967.

Sec. 3. The Governor shall appoint an additional resident judge for each of the twelfth, eighteenth, nineteenth, twenty-sixth, and twenty-eight judicial districts, to take office July 1, 1967. The successors of the Governor's appointees shall be chosen in the manner prescribed by law for other Resident Superior Court Judges in the general election of 1968 to serve for the unexpired portion of the term of eight years which began as of January 1, 1967, and their successors shall be chosen thereafter in the manner and serve for terms as prescribed for other Resident Superior Court Judges.

Sec. 4. The present resident judges of the twelfth, nineteenth and twenty-eight judicial districts shall be the senior resident judges of their respective districts.

Sec. 5. The additional resident judges of the twelfth, eighteenth, nineteenth, twenty-sixth, and twenty-eighth judicial districts shall, in respect to the exercise of judicial power, have equal jurisdiction, authority and status with the senior resident judges of such districts; but all duties placed by the Constitution or statutes on the resident judge of a judicial district, including the appointment to and removal from office, which are not related to a case, controversy, or judicial proceeding and which do not involve the exercise of judicial power, shall be discharged by the resident judge of the judicial district senior in point of continuous service on the Superior Court; and if two judges be of equal

seniority, then by the judge who is senior in point of age.

Sec. 6. There is hereby appropriated for each year of the biennium 1967-69, one hundred seventeen thousand five hundred dollars ($117,500.00) for the purposes set forth in the proceeding Section of this bill.

Sec. 7. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 8. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 29th day of June, 1967.

Chapter 1119, (North Carolina) Session Laws of 1977:

S. B. 125 **CHAPTER 1119**

AN ACT TO AMEND G.S. 7A-41 TO AUTHORIZE ADDITIONAL RESIDENT SUPERIOR COURT JUDGES AND ASSISTANT DISTRICT ATTORNEYS IN VARIOUS JUDICIAL DISTRICTS, TO MAKE APPROPRIATIONS THEREFOR AND TO APPROPRIATE FUNDS FOR DEVELOPMENT OF STANDARD JURY CHARGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41 is amended to authorize an additional resident superior court judge in the third, fourth, eighth, tenth, twelfth, fourteenth, nineteenth, twentieth, twenty-second, and twenty-sixth judicial districts, so that the quota of resident superior court judges for these districts in the table in G.S. 7A-41 will read as follows:

Judicial District	No. of Resident Judges
3	2
4	2
8	2
10	4
12	3
14	3
19	3
20	2
22	2
26	5

Sec. 2. The additional judges authorized in Section 1 of this act shall be appointed by the Governor and shall take office on July 1, 1977. The successors of the Governor's appointees shall be chosen in the manner prescribed by law for other resident superior court judges in the general election of 1978 to serve for the unexpired portion of the term of eight years which began as of January 1, 1977, and their successors shall be chosen thereafter in the manner and serve for terms as prescribed for other resident superior court judges.

Sec. 3. G.S. 7A-41 is amended, effective as of July 1, 1977, to increase the number of assistant district attorneys for the third, fourth, fifth, eighth, tenth, twelfth, thirteenth, fourteenth, sixteenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-seciond, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth and twenty-seventh-A, judicial districts, so that the quota of assistant district attorneys for these districts in the table in G.S. 7A-41 will read as follows:

Judicial District	No. of Full-Time Assistant District Attorneys
3	7
4	7
5	6
8	6
10	12
12	9
13	3
14	6
16	5
18	10
19	7
20	7
21	8
22	5
23	2
24	2
25	6
26	15
27	5 for Prosecutorial District 27A and 3 for Prosecutorial District 27B

Sec. 4. G.S. 7A-41 is amended by changing the figure designating the number of resident judges in the fifth judicial district from "1" to "2". This amendment does not authorize an additional resident superior court judge for the fifth judicial district. It changes the table so as to reflect the additional judge provided by Session Laws 1969, Chapter 1171.

Sec. 5. There is hereby appropriated from the General Fund to the Judicial Department the sum of ninety-seven thousand forty-six dollars ($97,046) for each fiscal year of the 1977-1979 biennium to provide an assistant district attorney for the following judicial districts: five, twenty-one, twenty-five and twenty-seven-A.

Sec. 6. There is appropriated from the General Fund to the Administrative Office of the Courts twenty-two thousand dollars ($22,000) during the fiscal year 1977-78 and twenty-two thoussand dollars ($22,000) during fiscal year 1978-79 to provide for drafting, staffing, and other reasonable expenses of developing updated standard jury charges covering various legal situations which arise in court (pattern jury instructions).

Sec. 7. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

Chapter 1130, (North Carolina) Session Laws of 1977:

S. B. 224 **CHAPTER 1130**

AN ACT TO DIVIDE THE FIFTEENTH AND TWENTY-SEVENTH JUDICIAL DISTRICTS, AND TO CREATE ADDITIONAL DISTRICT ATTORNEYS, SUPERIOR COURT JUDGE, AND DISTRICT COURT JUDGES AS REQUIRED THEREBY AND TO MAKE APPROPRIATIONS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective July 15, 1977, by deleting the reference to the fifteenth judicial district therein, and inserting in lieu thereof the following:

"Judicial District	Counties	No. of Resident Judges	No. of full-time Asst. District Attorneys
15A	Alamance	1	3
15B	Orange Chatham	1	2"

Sec. 2. G.S. 7A-41, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective January 1, 1979, by deleting the reference to the twenty-seventh judicial district therein, and inserting in lieu thereof the following:

"Judicial District	Counties	No. of Resident Judges	No. of full-time Asst. District Attorneys
27A	Gaston	2	5
27B	Cleveland Lincoln	1	3"

Sec. 3. G.S. 7A-60(b), as set forth in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by adding the following paragraphs at the end thereof:

"Effective July 15, 1977, the fifteenth prosecutorial district is divided into two prosecutorial districts, to be known as Prosecutorial Districts 15A and 15B. District 15A shall consist of Alamance County, and District 15B shall consist of Orange and Chatham Counties. The current district attorney of the fifteenth prosecutorial district shall become the district attorney for Prosecutorial District 15A, and the Governor shall appoint a district attorney for Prosecutorial District 15B. The appointee shall serve until January 1, 1979 and his successor shall be chosen in the general election of November 1978, to serve a four-year term beginning January 1, 1979."

Sec. 4. G.S. 7A-133, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective July 15, 1977, by deleting the references to the fifteenth district under the columns headed "District", "Judges", and "County", and inserting in lieu thereof:

"District	Judges	County
15A	3	Alamance
15B	2	Orange Chatham"

The additional district court judge authorized by this act for district fifteen-A shall be appointed by the Governor to serve until the first Monday in December 1980. The appointee's successor shall be chosen in the general election of November 1980 to serve a four-year term beginning the first Monday in December 1980.

Sec. 5. G.S. 7A-133, as set forth in the 1976 Interim Supplement to the General Statutes, is amended in the table, effective January 1, 1979, by deleting the references to the twenty-seventh district under the columns headed "District", "Judges", and "County", and inserting in lieu thereof:

"District	Judges	County
27A	4	Gaston
27B	2	Cleveland
		Lincoln

The additional district court judge authorized by this act for district 27B shall be appointed by the Governor to serve until the first Monday in December 1980. The appointee's successor shall be chosen in the general election of November 1980, to serve a four-year term beginning the first Monday in December 1980.

Sec. 6. G.S. 7A-465, as set forth, in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended by adding the following at the end of the third paragraph.

"Effective January 1, 1979, the twenty-seventh judicial district is divided into judicial districts 27A and 27B. On that date the current public defender of the twenty-seventh district shall become the public defender for district 27A."

Sec. 7. G.S. 7A-466, as set for th in the 1975 Cumulative Supplement to Volume 1B of the General Statutes, is amended in line 2 by deleting "twenty-sixth and twenty-seventh" and inserting in lieu thereof "twenty-sixth and twenty-seventh-A".

Sec. 8. There is hereby appropriated from the General Fund to the Judicial Department the sum of forty-one thousand six hundred ninety-five dollars ($41,695) for the 1977-1978 fiscal year and the sum of ninety-seven thousand five hundred seventy-seven dollars ($97,577) to provide additional judicial employees in judicial districts fifteen-A, fifteen-B, twenty-seven-A and twenty-seven-B.

Sec. 9. This act shall become effective July 15, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.

Chapter 1238, (North Carolina) Session Laws of 1977:

S. B. 996 **CHAPTER 1238**

AN ACT TO DIVIDE THE NINETEENTH JUDICIAL DISTRICT, AND TO CREATE AN ADDITIONAL DISTRICT ATTORNEY AND DISTRICT COURT JUDGE AS REQUIRED THEREBY AND TO MAKE APPROPRIATIONS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41 is amended in the Table, effective January 1, 1979, by deleting the reference to the Nineteenth Judicial District therein, and inserting in lieu thereof the following:

"Judicial District	Counties	No. of Resident Judges	No. of Full-Time Asst. District Attorneys
19A	Cabarrus, Rowan	2	4
19B	Montgomery, Randolph	1	3"

Sec. 2. G.S. 7A-60(b) is amended by adding the following paragraph at the end:

"Effective January 1, 1979, the Nineteenth Prosecutorial District is divided into two Prosecutorial Districts, to be known as Prosecutorial Districts 19A and 19B. District 19A shall consist of Cabarrus and Rowan Counties, and District 19B shall consist of Montgomery and Randolph Counties. The current District Attorney for Prosecutorial District 19A, and the Governor shall appoint a District Attorney for Prosecutorial District 19B. The appointee shall serve until January 1, 1981, and his successor shall be chosen in the general election of November 1980, to serve a four-year term beginning January 1, 1981."

Sec. 3. G.S. 7A-133 is amended in the Table, effective January 1, 1979, by deleting the references to the Nineteenth District under the columns headed "District", "Judges", and "County", and inserting in lieu thereof:

"District	Judges	County
19A	4	Cabarrus
		Rowan
19B	2	Montgomery
		Randolph"

Sec. 4. The additional district court judge authorized by this

act for District 19B shall be appointed by the Governor to serve until the first Monday in December 1980. The appointee's successor shall be chosen in the general election of November 1980 to serve a four-year term beginning the first Monday in December 1980.

Sec. 4. There is hereby appropriated from the General Fund to the Judicial Department the sum of eighty-three thousand four hundred ten dollars ($83,410) for the 1978-79 fiscal year to provide additional judicial employees in judicial District 19B.

Sec. 5. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

Chapter 1109, (North Carolina) Session Laws of 1983:

H. B. 155! **CHAPTER 1109**

AN ACT TO APPROPRIATE FUNDS TO THE JUDICIAL DEPARTMENT AND THE ADMINISTRATIVE OFFICE OF THE COURTS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Judicial Department the sum of eighty-five thousand dollars ($85,000) for fiscal year 1984-85 to continue the Mecklenburg County pilot program requiring mediation of disputes over child custody and visitation.

Sec. 2. There is appropriated from the General Fund to the Judicial Department for fiscal year 1984-85 the following amounts for salaries and benefits for the following new positions:

(a)	Four superior court judges added by Section 4 of this act	$209,804
(b)	Four court reporters added by Section 7 of this act	$ 55,168
(c)	Four district court judges added by Section 5 of this act	$256,812

(d)	Seven magistrates added by Section 8 of this act	$105,434
(e)	Four assistant district attorneys added by Section 4.1 of this act	$154,076
(f)	53 deputy clerks of superior court added by Section 6 of this act	$765,645

Sec. 2.1. There is appropriated from the General Fund to the Judicial Department for fiscal year 1984-85 the sum of seventy-two thousand dollars ($72,000) for the increase in expense allowance provided by Section 2.2 of this act.

Sec. 2.2. G.S. 7A-44(a) is amended by deleting "five thousand five hundred dollars ($5,500)", and inserting in lieu thereof "six thousand five hundred dollars ($6,500)".

Sec. 3. There is appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1984-85 the following amounts for the following purposes:

(a)	Equipment for clerk of court accounting system to upgrade program	$ 600,000
(b)	Expansion of court information system (mainframe, peripherals, and software)	$1,700,000
(c)	Update filing systems in offices of clerks of court	$ 153,785
(d)	Fund clerical positions until June 30, 1985, for indigency screening program under Section 7 of 1983 Session Laws Chapter 881	$ 46,500

Sec. 4. G.S. 7A-41 is amended in the table so that the total numbers of resident judges for the indicated judicial districts read:

"Judicial District	No. of Resident Judges
1	2
9	2
18	4
30	2."

Sec. 4.1. G.S. 7A-41 is amended in the table so that the total numbers of full-time assistant district attorneys for the indicated judicial districts read:

"Judicial District	No. of Full-Time Asst. District Attorneys
2	4
12	12
17B	3
18	14."

Sec. 5. G.S. 7A-133 is amended in the table so that the numbers of district court judges for the indicated judicial districts read:

"District	Judges
2	3
12	6
21	6
26	11."

Section 6. There are established 53 new positions of deputy clerk of superior court, to be allocated among the State's counties by the Administrative Officer of the Courts pursuant to the formula developed under Section 9 of 1983 Session Laws Chapter 881.

Sec. 7. There are established four new positions of court reporter, to be appointed in accordance with the provisions of G.S. 7A-95(e).

Sec. 8. There are established seven new positions of magistrate, to be appointed in accordance with the provisions of G.S. 7A-171.

Sec. 9. Article 12 of General Statutes Chapter 7A is amended by adding a new section to read:

"§7A-113. Bookkeeping and accounting systems equipment—Nothwithstanding the provisions of G.S. 147-64.6(10), proposed changes in the kinds of bookkeeping and accounting systems equipment employed by the clerk of superior court shall be subject to review and approval by the Office of State Budget and Management. The Administrative Officer of the Courts shall, prior to implementing any change in the kinds of equipment, file with the Office of State Budget and Management a request for approval of the change, along with supporting information. If within 30 days of the filing of the request the Office of State

Budget and Management has not disapproved the request, the request shall be deemed to be approved."

Sec. 10. G.S. 143-2 is amended in the final paragraph by inserting between the word, "in" and the citation, "G.S. 143-25" the following: "G.S. 7A-113 or in".

Sec. 11. G.S. 7A-10(c), 7A-18(b), 7A-44(b) and 7A-144(b) are each amended by rewriting the last sentence of those subsections to read:

"'Service' means service as a justice or judge of the General Court of Justice or as a member of the Utilities Commission."

Sec. 12. G.S. 7A-455(b) is rewritten to read:

"(b) In all cases the court shall fix the money value of services rendered by assigned counsel or the public defender, and such sum plus any sums allowed by the court for other necessary expenses of representing the indigent person, shall be entered as a judgment in the office of the clerk of superior court, and shall constitute a lien as prescribed by the general law of the State applicable to judgments. Any reimbursement to the State as provided in subsection (a) of this section or any funds collected by reason of such judgment shall be deposited in the State Treasury and credited against the judgment; provided, that counsel fees ordered paid to the clerk on behalf of the appointed counsel pursuant to G.S. 15A-1343(e) may be paid directly to the counsel."

Sec. 13. The superior and district court judgeships created by Sections 4 and 5 of this act shall be filled as follows:

(1) Initial appointments to each of the superior court judgeships shall be made by the Governor for a term to expire on December 31, 1986.

(2) Initial appointments to each of the district court judgeships shall be made by the Governor for a term to expire on the first Monday in December 1986.

Sec. 13.1. The first sentence of G.S. 7A-10(c), the first sentence of G.S. 7A-18(b), the first sentence of G.S. 7A-44(b), the first sentence of G.S. 7A-144(b), the first sentence of G.S. 7A-65(c), and the first sentence of the last paragraph of G.S. 7A-101 are each amended:

(1) by deleting "and", and inserting in lieu thereof ","; and

(2) by adding immediately before the period the following language: ", fourteen and four-tenths percent (14.4%) after 15

years of service, and nineteen and two-tenths percent (19.2%) after 20 years of service".

Sec. 13.2. There is appropriate from the General Fund to the Administrative Office of the Courts the sum of one hundred fifty-nine thousand six hundred ninety-eight dollars ($159,698) to provide nine additional positions as follows:

(1) A Supreme Court Director of Research,

(2) One statistical analyst,

(3) One purchasing agent,

(4) One microfilm clerk,

(5) Five secretarial positions to be allocated by the Director of the Administrative Office of the Courts to Judicial Officials.

Sec. 13.3. There is appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1984-85 the sum of one hundred fifty-six thousand two hundred forty-seven dollars ($156,247) to provide funding for the equalization of the salaries of employees resulting from Personnel Classification and pay studies.

Sec. 13.4. There is appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1984-85 the sum of sixteen thousand dollars ($16,000) as a grant-in-aid to the Buncombe County Dispute Settlement Center.

Sec. 13.5. There is appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1984-85 the sum of three hundred fifty-nine thousand two hundred fifty dollars ($359,250) to fund the longevity provided by Sec. 13.1 of this act.

Sec. 13.6. G.S. 7A-39.2(a), as it appears in the 1981 Replacement Volume 1B of the General Statutes, is amended by deleting from the sixth line thereof the words "annual salary" and inserting in lieu thereof the words "total annual compensation, including longevity, but excluding any payments in the nature of reimbursement for expenses,".

Sec. 13.7. G.S. 7A-39.2(b), as it appears in the 1981 Replacement Volume 1B of the General Statutes, is amended by deleting from the fourth line thereof the words "annual salary" and inserting in lieu thereof the words "total annual compensation, including longevity, but excluding any payments in the nature of reimbursement for expenses,".

Sec. 13.8. G.S. 7A-39.2(b), as it appears in the 1981 Replacement Volume 1B of the General Statues, is amended by deleting from the fifth line thereof the words "annual salary" and inserting in lieu thereof the words "total annual compensation, including longevity, but excluding any payments in the nature of reimbursement for expenses,".

Sec. 13.9. G.S. 7A-39.2 is amended by adding thereto a new subsection to read:

"(d) For purposes of this section, the 'occupant or occupants of the office which' the retired judge retired will be deemed to be a judge or justice of the Appellate Division holding the same office and with the same service as the retired judge had immediately prior to retirement."

Sec. 13.10. G.S. 7A-51(a), as it appears in the 1981 Replacement Volume 1B of the General Statutes, is amended by deleting from line 6 of that subsection the words "annual salary" and substituting in lieu thereof the words "total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances,".

Sec. 13.11. G.S. 7A-51(b), as it appears in the 1981 Replacement Volume 1B of the General Statutes, is amended by deleting from line 6 of that subsection the words "annual salary" and substituting in lieu thereof the words "total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances,".

Sec. 13.12. G.S. 7A-51(c) is amended by deleting from line 5 of that subsection the words "annual salary" and substituting in lieu thereof the words "total annual compensation, including longevity and additional payment for service as senior resident superior court judge, but excluding any payments in the nature of reimbursement for expenses or subsistence allowances,".

Sec. 13.13. G.S. 7A-51, as it appears in the 1981 Replacement Volume 1B of the General Statutes, is amended by adding thereto a new subsection, to read:

"(e) For purposes of this section, the 'occupants of the office from which' the retired judge retired will be deemed to be a superior court judge holding the same office and with the same service as the retired judge had immediately prior to retirement."

Sec. 13.14. G.S. 135-58(c), as it appears in the 1981 Replacement Volume 3B of the General Statutes, is amended by deleting from lines 2-3 of that subsection the words "initially payable upon the retirement of any member" and substituting in lieu thereof the words "payable at any time to a retired member".

Sec. 13.15. G.S. 135-58, as it appears in the 1981 Replacement Volume 3B of the General Statutes is hereby amended by adding thereto a new subsection, to read:

"(e) Notwithstanding any other provision to the contrary, in no event will the retirement allowance payable at any time to a retired member who was a member of a previous system immediately prior to January 1, 1974, prior to any reduction of such allowance in accordance with G.S. 135-61, be greater than the retirement allowance to which he would have been entitled under the terms of such previous system if this Article had not been enacted or than the retirement allowance to which he would have entitled under this Article if he had not been entitled to benefits under the terms of such previous system, whichever is larger."

Sec. 13.16. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of thirty-six thousand dollars ($36,000) to increase the employer's contribution rate to the Uniform Judicial Retirement System by thirty-two one hundreths of a percent (.32%) of covered payroll of members.

Sec. 14. This act shall become effective July 1, 1984, except that Sections 4 and 7 shall become effective December 1, 1984.

In the General Assembly read three times and ratified, this the 6th day of July, 1984.